

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK (BROOKLYN)

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UNITED STATES OF AMERICA, : Case No.: 23MJ265
: Plaintiff, : Brooklyn, New York
: v. : April 17, 2023
: : 3:56 p.m. - 4:30 p.m.
LU JIANWANG, :
CHEN JINPING, : Defendants.
-----:

TRANSCRIPT OF BAIL HEARING
BEFORE THE HONORABLE JAMES R. CHO
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Government: UNITED STATES ATTORNEYS OFFICE
BY: ANTOINETTE RANGEL, AUSA
271 Cadman Plaza East
4th Floor
Brooklyn, New York 11201

For Defendant: FEDERAL DEFENDERS OF NY
Lu Jianwang BY: Deirdre D. Von Dornum, Esq.
One Pierrepont Plaza
Brooklyn, New York 11201

For Defendant: LAW OFFICE OF SUSAN G. KELLMAN
Chen Jinping BY: Susan G. Kellman, Esq.
25 Eighth Avenue
Brooklyn, New York 11217

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service

PROCEEDINGS

1 MS. RANGEL: Good afternoon, Your Honor.

2 Antoinette Rangel, Alex Solomon and FBI Special
3 Agent, Jason Moritz, for the government.

4 THE COURT: Good afternoon.

5 MS. VON DORNUM: Good afternoon, Your Honor.

6 Deirdre von Dornum, Federal Defenders of New York
7 for Harry Lu. Mr. Lu is present next to me and is
8 receiving Mandarin interpretation. Mr. Lu has a
9 retained counsel, David Yan (phonetic), so I'm
10 appearing only for bail purposes today with the
11 Court's permission.

12 THE COURT: All right. That's fine.

13 MS. KELLMAN: Good afternoon, Your Honor.
14 Susan Kellman for Chen Jinping. My client is present
15 in court, Your Honor, and is being assisted by a
16 Mandarin interpreter as well. I'm also joined at
17 counsel table, Your Honor, by Mike Mullen, who is a
18 member of our Eastern District mentoring program.

19 THE COURT: All right. Good afternoon.

20 MS. KELLMAN: Good afternoon, Your Honor.

21 THE COURT: All right.

22 MS. RANGEL: Your Honor, have the
23 translators been sworn in? Sorry if I -- oh,
24 previously sworn. Okay.

25 THE COURT: Okay.

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1 MS. RANGEL: Just wanted to make sure we're
2 clear for the record. Thank you.

3 THE COURT: All right. Just to confirm, are
4 you Mr. Lu?

5 DEFENDANT LU: Yes.

6 THE COURT: Yes? Okay.

7 And you are Mr. Chen? Yes?

8 MS. RANGEL: You need to say words.

9 DEFENDANT CHEN: Yes.

10 THE COURT: Okay.

11 DEFENDANT CHEN: Yes.

12 THE COURT: Okay. Good afternoon. And when
13 I speak to you, please speak on the microphone so it
14 can pick you up, okay?

15 All right. Good afternoon, everyone. I'm
16 Judge Cho.

17 The purpose of today's proceeding is to make
18 sure that you can understand your rights, what you've
19 been charged with and determine whether you should be
20 released on bail or held in jail.

21 You have the right to remain silent. You're
22 not required to make any statement. If you've made a
23 statement in the past, you need not say anything
24 further. If you start making a statement in the
25 future, you can stop at any time. Any statement you

PROCEEDINGS

1 make may be used against you.

2 Do you understand that, Mr. Lu?

3 DEFENDANT LU: Understood.

4 THE COURT: Do you understand, Mr. Chen?

5 DEFENDANT CHEN: Understood.

6 THE COURT: All right. Now, you also have
7 the right to an attorney. And if you can't afford
8 one, the Court will appoint one for you. All right.

9 Mr. Lu, I understand you have retained
10 counsel; is that correct?

11 DEFENDANT LU: Yes.

12 THE COURT: Understood.

13 All right. So at least for purposes of
14 today, I will appoint Ms. von Dornum to represent you
15 for bail purposes, but going forward, you'll be
16 represented by your own attorney; is that correct,
17 Mr. Lu?

18 DEFENDANT LU: Yeah. One more time, please.
19 I didn't understand that.

20 THE COURT: All right. Mr. Lu, you have
21 your own attorney; is that correct?

22 DEFENDANT LU: Correct.

23 THE COURT: All right. Now, your attorney
24 is not here today, is he?

25 DEFENDANT LU: Correct.

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1 THE COURT: All right. So for purposes of
2 today's proceeding, Ms. von Dornum with the Federal
3 Defenders would be representing you for bail
4 purposes; is that correct?

5 DEFENDANT LU: Correct.

6 THE COURT: All right. Now, Ms. von Dornum,
7 do you accept that appointment?

8 MS. VON DORNUM: I do. Thank you, Your
9 Honor.

10 THE COURT: All right. Now, turning to you,
11 Mr. Chen, I have a financial affidavit in front of
12 me. Did you complete a financial affidavit,
13 Mr. Chen?

14 DEFENDANT CHEN: Yes.

15 THE COURT: All right. And it indicates
16 that you earn about \$2,000 per month; is that
17 correct?

18 DEFENDANT CHEN: Yes.

19 THE COURT: And you currently have about
20 \$50,000 in debt; is that correct?

21 DEFENDANT CHEN: Correct.

22 THE COURT: And that you have limited
23 savings; is that correct?

24 DEFENDANT CHEN: Correct.

25 THE COURT: All right. So for purposes of

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1 today and all purposes going forward, I will appoint
2 Susan Kellman as your attorney.

3 Ms. Kellman, do you accept that appointment?

4 MS. KELLMAN: Yes, I do. Thank you, Your
5 Honor.

6 THE COURT: All right.

7 Now, Mr. Lu and Mr. Chen, I have in front of
8 me a complaint. You have been charged with two
9 counts. The first is conspiracy to act as an agent
10 of the People's Republic of China government, and the
11 second charge is obstruction of justice.

12 Mr. Lu, have you received a copy of the
13 complaint, or has your attorney reviewed it with you?

14 MS. VON DORNUM: Your Honor, I reviewed it
15 with Mr. Lu with the help of Mr. Moy at a very high
16 level because I don't represent him on the
17 substantive charges. We did not review every part of
18 it, but he understands the two criminal charges, but
19 he has not reviewed the factual allegations.

20 THE COURT: Understood.

21 Now, Mr. Lu, am I correct in understanding
22 that you understand the two charges against you? Is
23 that right, Mr. Lu?

24 DEFENDANT LU: Yeah.

25 THE COURT: All right. Same question for

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1 you, Mr. Chen, do you understand the charges against
2 you?

3 DEFENDANT CHEN: Understood.

4 THE COURT: All right. Now, Ms. von Dornum,
5 at this point in time, does your client have a
6 position on a preliminary hearing, or are you able to
7 represent his --

8 MS. VON DORNUM: I am, Your Honor. At this
9 time, we'll waive the preliminary hearing and, in
10 fact, later in the proceeding, we'll have a request
11 for an order of excludable delay.

12 THE COURT: Understood.

13 All right. Ms. Kellman, does your client
14 have a view on preliminary hearing as well?

15 MS. KELLMAN: Yes, Your Honor. And he's
16 executed an order of excludable delay.

17 THE COURT: All right. At this time, let me
18 turn to the government.

19 Now, pursuant to Federal Criminal Procedure
20 5(f), I remind the government of its obligations
21 under Brady v. Maryland and its trial team to
22 disclose to the defense all information known to the
23 government, whether admissible or not, that is
24 favorable to the defendant and material either to
25 guilt or to punishment. The government must make

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1 good-faith efforts to disclose such information to
2 the defense as soon as reasonably possible. And I'll
3 be entering an order more fully describing this
4 obligation and the possible consequences of failing
5 to meet it. And I direct the government to review
6 and comply with that order.

7 Does the government confirm it understands
8 its obligations, and will fulfill them?

9 MS. RANGEL: Yes, Your Honor.

10 THE COURT: All right. Do we need Customs
11 notification for this case?

12 MS. RANGEL: No. The defendants are both
13 U.S. citizens.

14 THE COURT: Okay. Understood.

15 All right. I understand we have a proposed
16 bail package for both defendants; is that right?

17 MS. RANGEL: Yes, Your Honor.

18 THE COURT: All right. Let's take them one
19 at a time.

20 MS. RANGEL: Sure.

21 THE COURT: All right. So let's start with
22 Mr. Lu. Why don't you put the terms on the record.

23 MS. RANGEL: Sure. It'll be a \$400,000 --

24 THE COURT: Mr. Lu. Start with Mr. Lu.

25 MS. RANGEL: Mr. Lu? Oh, apologies.

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1 For Mr. Lu, it's a \$250,000 bond secured by
2 property. There are two sureties. And we have --
3 we've given defense counsel a week to perfect the
4 security by property.

5 Would you like me to go through the
6 conditions, the additional conditions? They apply to
7 both defendants. So maybe the dollar amount for each
8 defendant, and then the shared conditions afterwards?

9 THE COURT: Go ahead and put all the
10 conditions on the record for each defendant one at a
11 time.

12 MS. RANGEL: Sure. So report to Pretrial
13 Services as directed. Travel is restricted to the
14 Eastern and Southern Districts of New York.
15 Surrender any travel documents and do not apply for
16 any travel documents. Have no contact with any
17 witnesses or victims of the offenses. Refrain from
18 contact with any co-conspirators identified by our
19 office, as well as any contact with any People's
20 Republic of China officials. Be subject to random
21 home and employment contacts, and subject to location
22 monitoring, and a curfew as determined by Pretrial
23 Services.

24 THE COURT: Understood.

25 MS. RANGEL: And, in addition, the final

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1 condition is that they not come within one mile of
2 the PRC Consulate and the PRC Mission. The Consulate
3 is located at 520 12th Avenue in New York City in
4 Manhattan, and the PRC Mission is 350 East 35th
5 Street, also in Manhattan.

6 THE COURT: All right. Ms. von Dornum, are
7 those the material terms as you understand them to
8 be?

9 MS. VON DORNUM: Yes. May I just consult
10 with Ms. Rangel for a moment?

11 THE COURT: Yes. Go ahead.

12 (Discussion held off the record.)

13 MS. RANGEL: So I'll slightly revise the
14 final condition, which is just a half a mile from the
15 PRC Consulate and the PRC Mission. And if for any
16 reason he needs to go slightly closer because they're
17 in midtown, he'll have to give notification to
18 Pretrial Services.

19 THE COURT: Okay. Ms. von Dornum, go ahead.

20 MS. VON DORNUM: I was going to say, it's my
21 understanding that Pretrial doesn't need Court
22 consent, nor does he need Pretrial approval, but to
23 notify Pretrial if he's going closer than half a
24 mile, given that those are both located in Midtown, I
25 think it's difficult to entirely avoid the area.

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1 THE COURT: Understood. All right. That's
2 fine.

3 Why don't I hear from the two suretors.

4 Can you swear them in?

5 (Witnesses sworn.)

6 THE COURT: All right. Since you both have
7 the same last name, I'll refer to you by first name;
8 okay?

9 LARRY LU: Okay.

10 THE COURT: All right. Good afternoon. I'm
11 Judge Cho. Let me explain to you what's going to
12 happen today.

13 The defendant, Mr. Lu, has been arrested on
14 two felony charges. The parties have agreed to the
15 terms of a bond in the amount of \$250,000, all right,
16 co-signed by the two of you. Before I can approve
17 this bond, I must assure myself that the two of you
18 are appropriate co-signers on this bond; okay?

19 Larry Lu, you understand English, correct?

20 LARRY LU: Yes.

21 THE COURT: All right. Now, Tina Lu, do you
22 need a Chinese interpreter, or do you understand
23 English?

24 THE INTERPRETER: Chinese.

25 THE COURT: Interpreter?

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1 TINA LU: Yes.

2 THE COURT: Okay.

3 TINA LU: Yes.

4 THE COURT: All right. Ms. Lu, if at any
5 point in time you don't understand anything I'm
6 asking you, please tell me; okay?

7 All right. So let me start with you first,
8 Larry, then, so Tina can listen in; all right?

9 I understand you are Mr. Lu's son; is that
10 correct?

11 LARRY LU: Yes.

12 THE COURT: All right. How old are you?

13 LARRY LU: 28.

14 THE COURT: All right. And are you
15 currently working?

16 LARRY LU: Yes.

17 THE COURT: Approximately how much money do
18 you earn per year?

19 LARRY LU: About 70,000.

20 THE COURT: All right. What kind of work do
21 you do?

22 LARRY LU: Software development.

23 THE COURT: All right. What is your current
24 address?

25 LARRY LU: It's 1801 White Plains Road,

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1 Bronx, New York 10462.

2 THE COURT: All right. You were here when
3 the government mentioned the terms of his release; is
4 that correct?

5 LARRY LU: Yes.

6 THE COURT: Okay. Now, under our system,
7 you don't have to put up any money today. It's only
8 in the event that your father violates any terms of
9 his release that the government may come after you to
10 recover the full \$250,000 bond. Do you understand
11 that?

12 LARRY LU: Yes.

13 THE COURT: Okay. Now, knowing all of that,
14 do you still agree to be a co-signer on this bond?

15 LARRY LU: Yes.

16 THE COURT: Okay. All right. I will
17 approve you as a co-signer on this bond. Okay. You
18 may be seated.

19 All right. Turning to you, now. I
20 understand that you are Mr. Lu's wife; is that
21 correct?

22 MS. VON DORNUM: Sister, Your Honor.

23 THE COURT: I'm sorry. Sister. Is that
24 correct?

25 TINA LU: Older sister.

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1 THE COURT: Okay. Are you currently
2 working?

3 TINA LU: Yes.

4 THE COURT: All right. Keep your voice up
5 so I can hear you.

6 TINA LU: Oh, okay.

7 THE COURT: What kind of work do you do?

8 TINA LU: Help my mother.

9 THE COURT: All right.

10 MS. VON DORNUM: We would say home-health
11 aid, Your Honor.

12 THE COURT: Understood.

13 TINA LU: Yes.

14 THE COURT: You're being compensated for
15 your work, correct?

16 TINA LU: Yes.

17 THE COURT: All right. Approximately how
18 much money do you earn per year?

19 TINA LU: 28,000.

20 THE COURT: Okay. All right. Now, as I
21 mentioned to the defendant's son, under our system,
22 you don't have to put up any money today. It's only
23 in the event that the defendant violates any terms of
24 his release that the government may come after you to
25 recover the full \$250,000 bond. Do you understand

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1 that?

2 TINA LU: Understand.

3 THE COURT: All right. Now, knowing all
4 that, do you still want to be a co-signer on this
5 bond?

6 TINA LU: All right.

7 THE COURT: Okay. All right. I will
8 approve you a suretor as well. You can go ahead and
9 be seated.

10 TINA LU: Thank you.

11 THE COURT: All right. Turning now to you,
12 Mr. Lu.

13 Mr. Lu, I am prepared to approve the bond
14 consented to by the parties in the amount of
15 \$250,000. Do you understand that?

16 DEFENDANT LU: I do.

17 THE COURT: All right. As I mentioned to
18 your son and to your sister, you don't have to put up
19 any money today. It's only in the event that you
20 violate any terms of your release that the government
21 may come after you to recover the full \$250,000 bond.
22 Do you understand that?

23 DEFENDANT LU: Yeah.

24 THE COURT: Okay. All right. Let me give
25 you some warnings before we move on to the other

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1 defendant.

2 Now, Mr. Lu, if you fail to come to court as
3 directed, a warrant will be issued for your arrest,
4 and you'll be held without bail until your trial.

5 THE INTERPRETER: Your Honor, can you slow
6 down?

7 THE COURT: Sure.

8 Mr. Lu, if you fail to come to court as
9 directed, a warrant will be issued for your arrest,
10 and you'll be held without bail until your trial. If
11 you fail to appear, you may be brought up on charges
12 of bail jumping, which is a separate felony offense.
13 Even if you're not convicted of the underlying
14 charge, if you're convicted of bail jumping, you
15 could go to jail for that. If you're convicted of
16 both the underlying charge and the bail jumping, you
17 could receive consecutive jail terms.

18 If you commit any crimes while out on bail,
19 you'd be subjected to increased punishment. You are
20 not to threaten or influence the testimony of any
21 witnesses against you. Do you understand that?

22 DEFENDANT LU: I do.

23 THE COURT: All right. Keep your attorney
24 aware of where you can be reached. Appear in court
25 as directed. Do not commit any crimes while you're

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1 out on bail. And do not seek to influence the
2 testimony of any witnesses against you. Do you
3 understand?

4 DEFENDANT LU: Okay.

5 THE COURT: All right. Can you comply with
6 all the terms of your release?

7 DEFENDANT LU: Yeah.

8 THE COURT: All right. I'll go ahead and
9 approve the bond as proposed by the parties. Okay.

10 All right. Let's turn now to Mr. Chen.
11 Will the government put the material terms of the
12 bond on the record.

13 MS. RANGEL: Yes, Your Honor.

14 For Mr. Chen Jinping, it'll be a \$400,000
15 bond. He'll report to Pretrial Services as directed.
16 Travel is restricted to the Eastern and Southern
17 Districts of New York. He'll surrender any travel
18 documents and not obtain any new travel documents.
19 He'll have no contact with any witnesses and victims
20 in this case. He'll refrain from any contact with
21 co-conspirators identified by our office, as well as
22 any PRC government officials. He'll be subject to
23 random home and employment contacts. And in
24 addition, we ask the same half mile restriction that
25 he can't be near the PRC Consulate and PRC Mission.

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1 THE COURT: Understood.

2 Ms. Kellman, any other terms you want to put
3 on the record?

4 MS. RANGEL: Oh, I apologize, Your Honor.

5 He'll also be subject to location monitoring and a
6 curfew as directed by Pretrial. My apologies.

7 THE COURT: Ms. Kellman, any other terms?

8 MS. KELLMAN: No, Your Honor.

9 THE COURT: All right. Why don't I hear
10 from the suretors.

11 (Witnesses sworn.)

12 THE COURT: All right. Good afternoon to
13 the three of you. I'm Judge Cho. I'm going to
14 explain to you what's going to happen.

15 I believe you heard the prior proceeding, so
16 you'll hear the same questions I asked of the other
17 suretors.

18 So, William, as I understand it, you are
19 Mr. Chen's son; is that correct?

20 WILLIAM CHEN: Yes, sir.

21 THE COURT: Okay. And you are Lingming; is
22 that correct?

23 LINGMING CHEN: Yes.

24 THE COURT: All right. You are the
25 defendant's daughter?

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1 LINGMING CHEN: Correct.

2 THE COURT: All right. And finally, your
3 name is Chao-Lin; is that correct?

4 CHAO-LIN CHEN: Yes.

5 THE COURT: All right. What is your
6 relationship to the defendant?

7 CHAO-LIN CHEN: Husband and wife.

8 THE COURT: Okay. All right. So, William
9 and Lingming, you both understand English, correct?

10 LINGMING CHEN: Yes.

11 WILLIAM CHEN: Yes, sir.

12 THE COURT: Okay. I'll start with the two
13 of you, then we'll move over to your mother.

14 William, how old are you?

15 WILLIAM CHEN: I'm 22 years old, Your Honor.

16 THE COURT: Are you currently working?

17 WILLIAM CHEN: Yes.

18 THE COURT: All right. Do you have a
19 full-time job?

20 WILLIAM CHEN: I do.

21 THE COURT: Approximately how much money do
22 you earn per year?

23 WILLIAM CHEN: \$85,000.

24 THE COURT: All right. Now, let me turn to
25 Lingming.

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1 Are you currently working?

2 LINGMING CHEN: Yes.

3 THE COURT: How old are you?

4 LINGMING CHEN: 31.

5 THE COURT: All right. And are you working
6 full-time?

7 LINGMING CHEN: Yes.

8 THE COURT: Approximately how much money do
9 you earn per year?

10 LINGMING CHEN: \$100,000.

11 THE COURT: All right. Finally, let me turn
12 to Chao-Lin.

13 How do you pronounce your name?

14 CHAO-LIN CHEN: Chao-Lin Chen.

15 THE COURT: All right. I will refer to you
16 by your first name, if that's okay. It's just easier
17 for me that way. All right.

18 Do you currently reside with your husband?

19 CHAO-LIN CHEN: Yes.

20 THE COURT: Are you currently working?

21 CHAO-LIN CHEN: Yes.

22 THE COURT: Are you working full-time?

23 CHAO-LIN CHEN: Yes.

24 THE COURT: Approximately how much money do
25 you earn per year?

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1 CHAO-LIN CHEN: 30-plus thousand.

2 THE COURT: All right. So the defendant --

3 I'm prepared to release him on a \$400,000 bond.

4 Under our system, none of you need to put up any
5 money today. It's only in the event your father and
6 your husband violate any terms of his release that
7 the government may come after all of you to recover
8 the \$400,000 bond.

9 So I'll ask you one at a time, understanding
10 that, do you still want to be a co-signer on this
11 bond?

12 William, do you still want to be a
13 co-signer?

14 WILLIAM CHEN: Yes, sir.

15 THE COURT: All right. Lingming?

16 LINGMING CHEN: Yes.

17 THE COURT: All right. Chao-Lin?

18 CHAO-LIN CHEN: Yes.

19 THE COURT: All right. I will approve you
20 as co-signers on this bond. You can be seated.
21 Thank you.

22 All right. Let me turn to you now,
23 Mr. Chen.

24 I am prepared to approve your \$400,000 bond.
25 As I mentioned to your children and to your wife, you

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1 don't have to put up any money today. It's only in
2 the event you violate any terms of your release that
3 the government will come after you to recover the
4 full \$400,000 bond. Do you understand that?

5 DEFENDANT CHEN: Yes.

6 THE COURT: All right. Let me give you some
7 warnings as well.

8 If you fail to come to court as directed, a
9 warrant will be issued for your arrest and you'll be
10 held without bail until your trial. If you fail to
11 appear, you will be brought up on charges of
12 bail jumping, which is a separate felony offense.
13 Even if you're not convicted of the underlying
14 charge, if you're convicted of bail jumping, you
15 could go to jail for that. If convicted of both the
16 underlying charge and a bail jumping, you could
17 receive consecutive jail terms.

18 If you commit any crimes while out on bail,
19 you'll be subjected to increased punishment. So you
20 are not to threaten or influence the testimony of any
21 witnesses against you. You could be punished for
22 that as well. So keep your attorney aware of where
23 you can be reached. Appear in court as directed. Do
24 not commit any crimes. And do not seek to influence
25 the testimony of the witnesses against you.

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1 All right. Can you comply with all the
2 terms of your release?

3 DEFENDANT CHEN: Yes.

4 THE COURT: Okay. I'll go ahead and approve
5 the bond as well.

6 Do you need some water, Ms. Kellman?

7 MS. KELLMAN: That would be great, Judge.

8 Thank you.

9 THE COURT: All right. I understand we have
10 an application to exclude time, is that correct, from
11 the government?

12 MS. RANGEL: Yes, for both defendants, Your
13 Honor.

14 THE COURT: All right. Do you want to put
15 the reasons for the application on the record?

16 MS. RANGEL: Yes, Your Honor. The parties
17 request the time be excluded between April 17th,
18 today, and May 17th, so that the parties may engage
19 in plea negotiations.

20 MS. KELLMAN: May or June?

21 MS. RANGEL: I'm sorry. June. June 17th.

22 THE COURT: All right. Ms. von Dornum, is
23 that correct?

24 MS. VON DORNUM: That's correct, Your Honor.

25 THE COURT: All right. Ms. Kellman, is that

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1 correct with your client as well?

2 MS. KELLMAN: Yes, Your Honor.

3 THE COURT: All right. Now, Ms. von
4 Dornum -- and I'll ask you the same questions,
5 Ms. Kellman.

6 Ms. von Dornum, have you discussed with
7 Mr. Lu the matter of agreeing to exclude time?

8 MS. VON DORNUM: I have, Your Honor.

9 THE COURT: Okay. And do you believe it's
10 in your client's best interest to exclude time as
11 well?

12 MS. VON DORNUM: I do.

13 THE COURT: All right. Ms. Kellman, same
14 question for you.

15 MS. KELLMAN: I have discussed it with him,
16 and I believe it's in his best interest, yes. Thank
17 you, Judge.

18 THE COURT: All right. Now, to confirm,
19 Mr. Lu, I have a document entitled, "Application and
20 Order of Excludable Delay." Did you sign this
21 document, Mr. Lu?

22 DEFENDANT LU: Yeah.

23 THE COURT: Yes?

24 DEFENDANT LU: Uh-huh.

25 THE COURT: Okay. And did you have a

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1 conversation with your attorney about the issue of
2 excluding time? You have to say yes or no.

3 DEFENDANT LU: Yes.

4 THE COURT: Okay. All right.

5 Mr. Chen, same questions for you, is this
6 your application?

7 DEFENDANT CHEN: Yes.

8 THE COURT: All right. And did you have a
9 conversation with your attorney about excluding time?

10 DEFENDANT CHEN: Yes.

11 THE COURT: All right. I want -- at this
12 time, I want to make sure that both of you understand
13 what you are agreeing to by consenting to this order.

14 Under the constitutional law of the United
15 States, defendants in a criminal case have a right to
16 a speedy trial. Specifically, part of this right is
17 the right to have formal charges brought promptly.
18 Specifically, by statute, an Indictment or
19 Information must be returned within 30 days of the
20 defendant's arrest, with certain periods of time
21 excluded from that 30-day calculation.

22 Now, if formal charges are not brought
23 within the 30-day period, that could be the basis for
24 a motion to dismiss the charges. By agreeing to
25 exclude the period of time from today, April 17th

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1 through June 17, 2023, you are, in effect, agreeing
2 that the speedy-trial clock will not be running at
3 all during that period of time. Therefore, if I
4 approve the exclusion, if you ever made a motion to
5 dismiss the charges because an Indictment or
6 Information had not been filed within 30 days, you
7 would not be permitted to take into account
8 (inaudible) the period of time from April 17th until
9 June 17, 2023.

10 Mr. Lu, do you understand that?

11 DEFENDANT LU: Yes.

12 THE COURT: Mr. Chen, do you understand?

13 DEFENDANT CHEN: Yes.

14 THE COURT: All right. Now, Mr. Lu, when
15 you signed this form, did you sign this form
16 voluntarily and of your own free will?

17 DEFENDANT LU: Correct.

18 THE COURT: All right. Has anyone made any
19 promise or threat to get you to sign this form?

20 DEFENDANT LU: No.

21 THE COURT: All right. Same question for
22 you, Mr. Chen, are you making this decision to
23 exclude time voluntarily and of your own free will?

24 DEFENDANT CHEN: Yes.

25 THE COURT: Has anyone made any promise or

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1 threat to get you to agree with this exclusion of
2 time?

3 DEFENDANT CHEN: No.

4 THE COURT: All right. At this time, I find
5 that the defendants, Mr. Lu and Mr. Chen -- that
6 their consent is knowing, intelligent and
7 voluntarily, and that excluding the specified period
8 of time serves the public interest.

9 All right. I will go ahead and grant the
10 applications for both defendants.

11 All right. Anything else for the government
12 at this time?

13 MS. RANGEL: No, Your Honor.

14 THE COURT: Ms. von Dornum, anything else
15 for Mr. Lu?

16 MS. VON DORNUM: No, Your Honor. Thank you.

17 THE COURT: Ms. Kellman, anything else for
18 Mr. Chen?

19 MS. KELLMAN: No. Thank you, Your Honor.

20 THE COURT: We are adjourned. Thank you,
21 everyone.

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1 C E R T I F I C A T E
2

3 I, Adrienne M. Mignano, certify that the
4 foregoing transcript of proceedings in the case of
5 US v. Jianwang, et al., Docket #23MJ265 was prepared
6 using digital transcription software and is a true and
7 accurate record of the proceedings.

8
9
10 Signature

Adrienne M. Mignano

11 ADRIENNE M. MIGNANO, RPR

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13 Date: April 25, 2023

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